

# Law Enforcement News

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## Loopholes? More like bullet holes.

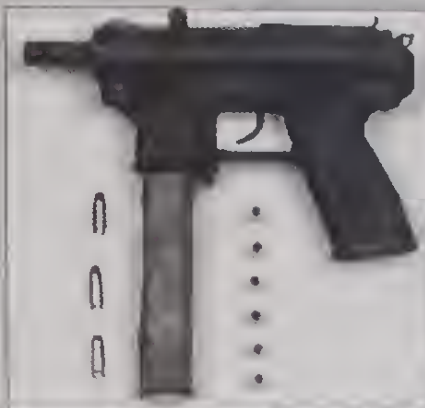
### GAO study finds little problem evading Brady background checks

Federal agents working undercover as part of a Congressional investigation punched right through loopholes in the Brady Act recently when they were able to purchase a variety of firearms, including a Russian-manufactured semiautomatic assault rifle acquired with little difficulty from a Montana pawnshop using a counterfeit driver's license.

Montana was one of five states selected for the investigation by the General Accounting Office at the request of U.S. Representative Henry Waxman, (D.-Calif.). As detailed in a report released in March by the GAO, investigators sent to Arizona, New Mexico, Virginia and West Virginia, in addition to Montana, were able to purchase weapons in each state using false identification created with off-the-shelf software, a scanner, a laminating machine and a color laser printer.

In all, seven firearms and numerous magazines were bought between October 2000 and this past February.

"Consistent with the Brady Act, in the five states we found that the instant background check does not positively identify purchasers of firearms," the report said. "Rather it is a negative



Illegal but easy to get — all it takes is fake ID and a sales clerk willing to encourage an illegal "straw" purchase (and recommend that you buy armor-piercing ammunition).

check that cannot ensure that the prospective purchaser is not a felon or other prohibited person whose receipt and possession of a firearm would be unlawful."

Under the Brady Act, gun dealers must run

prospective purchaser's names through the National Instant Criminal Background Check System (NICS), a computerized data base run by the FBI. The NICS Operations Center searches not only its own index, which contains records on those who would be disqualified by federal law from owning a firearm, but also the National Crime Information Center and the Interstate Identification Index, which holds criminal history records. Would-be firearms purchasers must show a photo identification, usually a driver's license.

If the NICS does not provide a response within three days, the dealer may then make a sale. "Accordingly, if there is no disqualifying or negative information to indicate that sale may be unlawful, the sale may take place," said the report.

The transaction in Montana was accomplished using a fake driver's license. The undercover agent was able to purchase a 7.62mm Russian SKS semiautomatic rifle and a .22 semiautomatic rifle from one Billings pawnshop, and two boxes of Russian-made ammunition and a 30-round banana clip from another. The purchase of semiautomatic assault weapons or magazines

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## Amid police outcry, S. Carolina A-G alters "open season on home invaders" stance

Clarifying a controversial policy, South Carolina Attorney General Charlie Condon said this month that prosecutors will seek law enforcement's input before dropping murder charges against those who use deadly force to defend against from home invaders.

Condon had angered police when he refused to prosecute a woman who fatally stabbed her boyfriend. The attorney general said he believed the act fell under his new home-invasion policy.

In January, Condon declared "open

season" on home invaders after hearing reports of three or four such crimes last year. He was tired, he said, of seeing homeowners dragged through court before being cleared, when it was obvious they had done nothing wrong.

"You don't want to put the homeowner in the position of saying, 'If I use deadly force, I might be cleared after a trial,'" Condon told The New York Times. "That's tantamount to saying that people have rights, but there's a huge cross attached to it. Most courts

have a laissez-faire attitude about these things, figuring that everything will come out fine after a trial. But I think we need to send the message that the home is sacred ground, period."

But the death in February of William Brock Jr., 39, added an unanticipated twist to the policy. According to Capt. Otis Rhodes, assistant police chief in Walterboro, Brock was stabbed with a file knife when he broke open the door of Lisa Gant's apartment. Gant and Brock had a child together.

Gant, a 36-year-old Wal-Mart employee, told police that Brock had slapped her and put her in a headlock when she said she wanted to end their relationship. She managed to get him out the door, which she then locked, but Brock fought his way back inside by shouldering the door frame and shattering it. He was stabbed once in the chest. He staggered to his car, where officers found him dead.

To police, the incident was a clear-cut case of domestic violence. Rhode said Gant was charged with homicide on the assumption that she would be able to convince a judge or jury that it was self-defense, or would plead guilty to a lesser charge.

"We didn't see this as a case of home invasion at all," the captain told The Times. "His clothes were there. He spent time there. He wasn't exactly a stranger breaking in."

Deadly force is allowable in most states if an occupant reasonably believes someone is trying to enter the home to commit a felony. In 1992, a Japanese exchange student was shot dead when a Baton Rouge homeowner mistook him for an intruder. Sixteen-year-old Yoshihiro Hattori had been searching for a Halloween party when he was killed by Rodney Pears on Oct. 17. A criminal trial jury found Pears innocent of manslaughter in 1993, but a Baton Rouge civil court held that he and his insurance company owed the boy's parents more than half a million dollars in damages — a judgment that was upheld on appeal.

A Park County, Colo., district attorney

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## Public housing may be left on its own as HUD anti-drug grants face the ax

Law enforcement and municipal officials, faced with the potential loss of tens, even hundreds of thousands of dollars in grants from the U.S. Department of Housing and Urban Development (HUD), fear they may lose whatever ground has been gained in the past few years in providing a safe environment for residents of public housing.

The 2002 budget proposed by President Bush would slash the Drug Elimination Program, a \$310-million initiative administered by HUD which funds a variety of law enforcement and crime prevention initiatives in public housing, including police patrols, alarm systems and after-school programs. The program, whose funding would be halved in 2002 under Bush's proposal, was deemed by the White House to have a "limited impact." Regulatory tools, such as evictions, have a greater impact

in reducing drug activity in housing developments, the statement said.

"Obviously, [it's] a very good, cooperative effort between us the Housing Authority," Springfield, Mo., Police Chief Lynn Rowe told Law Enforcement News. "We've had many successes in trying to make those residences a better place to live for everyone involved. Because we've had this money, we've been able to keep peace in those housing authority properties and we've done extremely well in making sure those areas are safe and livable."

Last year, the Springfield Housing Authority received approximately \$168,000 under a Drug Elimination Grant. Without that, noted Rowe, the police department would not be able to deploy officers specifically to public housing. It would also have to elimi-

nate overtime patrols, he said, and curtail the help the agency now gives the housing authority in checking the backgrounds of potential tenants.

"It's a matter of a high-visibility safety factor for those who are fearful, as well as a deterrent to those who might be thinking of doing something against the law," said Rowe. "They think twice when they see police officers there. We've been doing this for several years now and we've made tremendous headway in helping clean up these properties. I'd hate to see that go away."

The Drug Elimination Program was created in 1989, during the administration of Bush's father, President George H.W. Bush, by then-HUD Secretary Jack Kemp. "Obviously, the younger Bush did not have a conversation with the elder Bush," said Alvin Nance, president of the Knoxville Community

Development Corp., which runs that city's housing projects.

Besides the increase in police, Nance told The Knoxville News-Sentinel, the federal grant money has helped finance centers for drug treatment, child care and truancy. "It's helping us in a lot of ways."

Without the grants, said Police Chief Phil Keith, drug usage and drug dealing will increase in Knoxville's public housing. Over the past five years, he said, his department has received nearly \$4 million from the program, which has helped to cut crime by 40 percent. Police have seized at least two kilograms of cocaine from the housing projects during that period.

In order to pay for the 23 officers who make up the Knoxville branch of the Public Housing Drug Elimination

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# Around the Nation

## Northeast



**CONNECTICUT** — Cromwell Police Chief Anthony Salvatore has included \$5,268 in the department's proposed budget to buy six Taser stun guns, enough to equip the maximum number of officers on any shift. The department is also looking into the possible use of beanbag guns. *tw*

**DISTRICT OF COLUMBIA** — Police Chief Charles Ramsey blames overtime costs, driven by understaffing, for the department's budgetary problems, and he has asked the district's chief financial officer to audit the top 10 percent of overtime earners. According to payroll records, 47 officers made more than \$50,000 in overtime last year.

**MAINE** — Twenty-five years after starting as a clerk in the Portland Police Department, Judy Ridge has become the first woman in the department to reach the rank of lieutenant. Ridge, who had been serving in the community policing division, will now oversee a 14-officer patrol team from mid-afternoon to midnight.

**MARYLAND** — Despite the testimony of two other police officers who witnessed the attack, two Prince George's County police officers and an FBI agent were acquitted March 16 on charges that they had a police dog attack a homeless man. Jurors acquitted on one count and were deadlocked on another. The agent was a Takoma Park officer at the time of the incident.

Baltimore Police Officer Rodney Price was arrested March 16 and charged with killing his wife's boyfriend, Tristin D. Little Sr., by shooting him several times in the head and body with his 9mm Glock. Price has a history of assault complaints, including one in 1998 in which he was charged with assaulting a man who police say was another boyfriend of his wife.

**MASSACHUSETTS** — Richard Dahill, a hearing-impaired man, is suing the Boston Police Department for firing him after he graduated from the police academy. A lawyer for the department urged the state Supreme Judicial Court to follow the U.S. Supreme Court's limited view of the federal Americans with Disabilities Act.

Officer David J. Alexis is facing perjury and other charges after he allegedly lied about being shot in order to conceal an unsuccessful suicide attempt. Alexis, whose story sparked a huge manhunt and led to the arrest of an innocent man, has reportedly been in counseling for the past year.

**NEW JERSEY** — South Bound Brook Police Chief Robert Verry was acquitted March 15 of charges that he threatened to kill his ex-wife. Superior Court Judge Norman J. Peer ordered the acquittal, ruling that the plaintiff failed to prove her charge and that she changed her testimony about the date of the alleged threat.

**NEW YORK** — Pablo Almonte Llubes was extradited this month from the Dominican Republic to the United States and charged with the 1988

murder of New York City police officer Michael Buzek. Almonte was finally arrested after years of receiving protection from his brother, who is now a two-star general in the Dominican Army.

New York City has failed to qualify for more than half of a \$93-million federal subsidy to help pay for police personnel because of failures in retaining and recruiting police officers. Last September's police academy class included only 500 federally funded recruits. Officials had planned on a total of 1,230.

Donald Piedmont, a Niagara County sheriff's deputy and, until recently, the mayor of Middleport, is accused of putting a handgun against a woman's head and forcing her to have oral sex with him. Piedmont, who is charged with first-degree sodomy, is being held on \$100,000 bail.

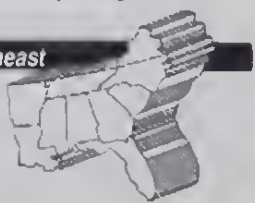
After his partner testified against him, former Brooklyn patrolman Jamile Jordan has agreed to plead guilty to murder conspiracy. Anthony Trotman told investigators that the two were planning to kill Det. Michael Paul because they were angry at him for contradicting their accounts of an arrest. The discrepancy eventually led to their dismissal. Trotman also gave details about a three-year crime spree that included perjury, fabricating evidence and robbery.

The New York City Police Department will be trying out the new PepperBall Launcher, a nonlethal weapon that fires a plastic ball filled with pepper dust. The PepperBall, which made its debut at the 1999 World Trade Organization riots in Seattle, does not require the officer to actually hit the subject with the plastic ball. Hitting the surrounding area releases a cloud of pepper powder. Police Commissioner Bernard Kerik said the weapon will only be used on emotionally disturbed people.

**PENNSYLVANIA** — Damell Hines is being held in the Beaver County Jail for allegedly ambushing Aliquippa Officer James Naim outside of a housing project and shooting him several times in the head. Police are looking for a second man also believed to be involved in the shooting. Naim, who was only 32 and had been on the force for less than a year, was the first officer killed in the line of duty in Beaver County in three decades.

The Pittsburgh city solicitor, Jacqueline Morrow, says that the executive director of the Citizen Police Review Board violated rules by issuing a questionnaire to mayoral candidates about police oversight and community relations. The candidates were also told that if they did not want to come to an April 24 board meeting to describe their views, the public would be informed. Morrow wrote that the board violated a city rule barring employees from engaging in political activity during work time.

## Southeast



**ALABAMA** — Prieveville's police chief of 20 years, Doyle Hammonds, pleaded not guilty March 20 to charges of third-degree assault and stalking. He

is accused of slapping and shaking one woman and stalking another. In May, he was suspended with pay after the first allegations were made, but he returned to work in July after the Town Council voted for his return.

**FLORIDA** — The Miramar Police Department has cleared its top firearms instructor, Sgt. Jeff Nordwever, of wrongdoing in the fatal shooting on New Year's Day of a 6-foot-tall emu, which was running in and out of traffic on a busy street.

Five Miami Police Department SWAT team officers have been indicted by a federal grand jury on charges of lying during an investigation into the slaying of 73-year-old Richard Brown during a drug raid in 1996. The officers claimed that Brown was seen dealing drugs from his home and then refused to let them into the apartment, firing two shots from a revolver when they burst through the door. The officers are accused of fabricating evidence and agreeing to make false statements regarding the shooting.

DNA tests have been ordered for six of the nine death-row inmates in Broward County, and the Sheriff's Office has reopened five murder cases from the 1970s. The order came after DNA tests proved that Frank Lee Smith was innocent of the rape and murder of an 8-year-old girl in 1985. Smith spent 14 years on death row before he died of cancer in January 2000. A state prosecutor is now investigating Capt. Richard Scheff, the former head of the sheriff's homicide unit, on allegations that he lied during Smith's two trials.

**GEORGIA** — On March 19, the city of Smyrna banned the sale of "graffiti tools" like spray paint to anyone under 18 and makes it a misdemeanor for minors to carry spray paint or felt-tip markers. A companion measure will require property owners to remove graffiti within five days of city notification and merchants to keep the graffiti-related items in areas inaccessible to customers. Police Lieut. Keith Zgone said the new laws will help fight gang-related crime by hampering gang members' communications, which often take the form of graffiti.

Patrick Cuffy, a fired DeKalb County deputy, was taken in for questioning after a shootout at his home on March 18 left one person wounded. Authorities had searched Cuffy's home in January in relation to the murder of Sheriff-elect Derwin Brown, who had planned to clean up a department tainted by allegations of corruption. Cuffy was employed by the private security company run by former sheriff Sidney Dorsey, who was beaten by Brown in a runoff last year. Dorsey had been under investigation for allegedly using on-duty deputies for his private security firm.

**LOUISIANA** — Sterlington Police Chief Vern Breland was arrested March 12 on charges of battery, false imprisonment, damage to property and public intimidation, after allegedly attacking his girlfriend and then threatening to fire officers who came to investigate.

**MISSISSIPPI** — Jackson Police Chief Braey Coleman resigned March 7 after he allegedly coerced an interior decorator into sex during a buying trip for a new desk. Coleman, who has been cred-

ited with helping federal authorities root out corruption in the department, has denied the allegations. No charges have been filed against him.

Mississippi Bureau of Narcotics Director Don Strange and other law enforcement officials joined Gov. Ronnie Musgrove on March 19 for a ceremonial signing of a bill that will give police and sheriffs departments a larger share of money and property seized in drug raids. Starting in July, when local agencies work with the MBN, they will keep 80 percent of the proceeds from drug busts — a reversal of the formula that had been in effect since 1972.

**NORTH CAROLINA** — Reports of missing marijuana have caused some embarrassment for the Chatham County Sheriff's Department. Last February, after the department seized nearly 5,000 pounds of marijuana, 3,000 pounds of it disappeared from an armored truck parked behind the sheriff's office. Someone dug up the other 2,000 pounds from the county landfill, where it had been buried. The FBI is investigating.

**SOUTH CAROLINA** — Chesnee Police Chief Robert King is standing by drug investigator David Parker, saying he is proud of the work he has done. Parker, who lost his previous law enforcement job for assaulting his wife, was hired in Chesnee after undergoing counseling and receiving a pardon from the governor. An opinion from the Bureau of Alcohol, Tobacco and Firearms stated that Parker's case was not covered by the federal law that bans anyone with a domestic violence conviction from carrying a gun.

## Midwest



**ILLINOIS** — The Palatine Village Council has amended a local ordinance to make it a crime to possess or sell drug paraphernalia. Police Chief Jack McGregor said the new law will give officers the option to cite minors and first-time offenders and fine them, rather than having to file criminal charges under state law.

Everett Lowe allegedly walked into the Chicago Police Department's Central District office on March 16, put a gun to an officer's face and pulled the trigger. The gun jammed and the officer suffered only powder burns. As Lowe continued to point the gun at other officers, the unidentified officer who was the initial target was able to wrestle the gun out of his hand. Lowe was convicted of second-degree murder for a 1989 killing, for which he was sentenced to 30 months of probation.

**INDIANA** — Elkhart Police Officer Doug Adams, 31, was killed March 20 when his cruiser collided with another one during a chase. The officer driving the other car was taken to the hospital with minor injuries. Adams had been on the Elkhart force for less than a year.

State Police Detective Sgt. Richard D. Irvin, 56, apparently killed himself on March 20 after investigators linked him financially to a used-car lot where dealers had allegedly swapped vehicles for guns and drugs. The Greenwood Auto Center and the home of its owner were

raided by state police and federal agents, who confiscated guns and thousands of dollars worth of cocaine and methamphetamine.

**MICHIGAN** — The Detroit police have adopted a new approach to cracking down on prostitution that is apparently paying off. The police are seizing suspects' cars when making solicitation arrests, then charging fines of up to \$2,700 to get the cars back.

Tammy Divetta, a woman who claimed that former Dearborn Police Chief Ron Deziel raped her on Jan. 18, has admitted that the charges were untrue and now faces a charge of filing a false police report. Deziel, who resigned the day before Divetta's allegations surfaced, said he does not plan to file a civil lawsuit.

**OHIO** — For the first time, Ohio police have used DNA samples from a state data base to link a suspect to an unsolved crime. On Feb. 14, state workers finished entering 30,000 samples from convicted criminals and began to compare them against unidentified DNA samples from crime scenes. Within days, Sean B. Price had been charged in connection with a 1999 rape in Symmes Township, near Cincinnati.

**WEST VIRGINIA** — The State Troopers Association wants the Legislature to repeal the state's hate-crime statute. The group's executive director, David Moye, said that "police officers want to treat everybody equally."

**WISCONSIN** — The state Supreme Court ruled March 20 that an anonymous tip from a motorist provided sufficient justification for an investigative stop of a vehicle. Greendale Police Officer Jerome Sardinia had stopped Paul Rutzinski after an anonymous caller told Sardinia that it appeared Rutzinski was driving erratically. Sardinia, who saw Rutzinski's vehicle but did not notice any reckless driving himself, pulled the vehicle over and then determined that Rutzinski was drunk. Rutzinski pleaded no contest to drunken driving and was convicted of that charge for the fourth time, resulting in a one-year jail sentence. Rutzinski later appealed, arguing that the stop was unreasonable under the Fourth Amendment.

Bobby Richard Dabney, Jr., a twice-convicted rapist who is serving time now on false imprisonment and armed robbery charges, has become the first person to be linked to a John Doe genetic-profile warrant, after he was charged March 14 with committing an unsolved 1994 rape. The John Doe warrant filed against Dabney in December was the 12th such warrant issued by a Milwaukee prosecutor and detective to keep a criminal case alive beyond the date it would have expired under the statute of limitations.

An item inserted into Gov. Scott McCallum's proposed state budget is now drawing heavy criticism from Milwaukee Police Chief Arthur Jones. The provision, inserted at the request of the Milwaukee Police Association, would restrict internal investigators in questioning police officers to weekdays between the hours of 7 a.m. and 5 p.m. A spokeswoman for the governor said that the provision was included in order to provide better quality legal representation during interrogations.



## Plains States

**IOWA** — Just five minutes after his release from a two-day jail term for driving with a revoked license, Larry Swanson was arrested by police for trying to retrieve a bag of cocaine that he had stashed.

**MINNESOTA** — Pyotr V. Shmelev walked into the Minneapolis police homicide unit with his attorney on March 14 and told police that he killed and dismembered his wife. He dumped parts of her body in a Missouri reservoir, but kept her head in his car for nearly three weeks. Authorities in Henry County, Mo., had launched their own investigation after finding body parts in the reservoir. The Kansas City Medical Examiner's Office shipped the remains to Minnesota, where Hennepin County medical examiners will conduct an autopsy to confirm the woman's identity.

**MISSOURI** — Independence Police Officer Terry Foster was just three weeks from retiring when he was shot and killed on March 17 while answering a domestic disturbance call. The shooter's parents said they called the police because their son was acting violently. Police tried to negotiate with the man, who had locked himself in an upstairs bedroom. When they forced open the door, he began firing, hitting Foster in the head three times. Other officers pulled Foster out of the house and when they returned, they felt an explosion. The man had set a fire that was intensified by a closetful of oxygen tanks, and he was killed in the blaze. Foster had joined the police force in 1968.

The St. Louis County Council has named a task force to look into the deaths of three people, all of whom were shot by county police officers during drug raids last year. Council chairman Kurt Odenwald said that the purpose was not to affix blame but rather to study existing policies, procedures and practices that might have led to the incidents and possibly make recommendations for change.

St. Louis Police Officer Robert Dodson was acquitted on charges of having fatally beaten a burglary suspect on a pawnshop rooftop two years ago. Dodson said that he had struggled with the man, Julius Thurman, and had to wrestle him onto the roof to handcuff him. However, confessed co-burglar Williams Smith accused Dodson of beating Thurman's chest with an object that resembled a flashlight. The medical examiner reported that Thurman died from a blow to the head that was not caused by a fall.

State Senator Anita Yeckel (R.-Sunset Hills) is sponsoring a measure to restrict quantities of cold remedies containing pseudoephedrine — an ingredient used for the production of methamphetamine — that can be sold by retailers. One county drug investigator testified before a Senate committee that he has tracked people who drive to an area to stock up on cold medicines, buying the packages for about \$3 and then reselling them for about \$10 to \$12 each to illegal drug manufacturers. Yeckel's bill would ban

the sale of more than three packages in a single transaction. It also prohibits the possession of more than five grams of ephedrine or 112 grams of pseudoephedrine by anyone other than pharmacists, physicians or distributors.

**MONTANA** — Police officers across the state are said to be writing more detailed reports on traffic stops after the state Supreme Court ruled that Great Falls officer Scott Van Every did not have enough reason to stop county commissioner Gayle Morris on suspicion of drunken driving. Van Every pulled over the commissioner's car at 2 a. m. when he noticed Morris's car drive out of the lane. Morris, who refused a breath test and was arrested, challenged the stop as unreasonable and said he had swerved to avoid potholes.

**NORTH DAKOTA** — Officials at the Alfred Dickey Public Library in Jamestown said that only 49 out of 330 readers have returned overdue materials, even after police action was threatened. Police Chief Dave Donegan said his officers will not go after every overdue item but will pursue items of great value. [See LEN, March 15, 2001.]

**WYOMING** — Former Fremont County sheriff David King is free on a \$10,000 bond after being charged with obtaining possession of a controlled substance by unlawful means and possession of a controlled substance. King is accused of stealing and using cocaine from an evidence locker that was intended for K-9 training. He was hospitalized in May for kidney and liver problems after an alleged three-day cocaine binge. King resigned last November, citing health problems.



**ARIZONA** — The state Supreme Court ruled that inmates convicted of crimes committed before September 1990 are not eligible for early release. The ruling came in the case of Kenneth True, who pleaded guilty in 1985 to attempted child molestation, and now contends that he is entitled to parole.

Tucson Police Officer Rudy Christopher Oaxaca was arrested on March 16 and notified of the department's plans to suspend him for beating his girlfriend — a fellow officer. The woman was hospitalized with a fractured eye socket, a department spokesman said.

Glendale police Det. Danny Garcia, a property crimes investigator, was arrested by Surprise police March 10 and charged with sexual misconduct involving a 15-year-old girl. Garcia has been placed on administrative leave.

**COLORADO** — With the state's Hispanic population booming, the Colorado Springs Police Department is launching a translation program that relies on Spanish-speaking officers.

Police in Golden have mailed letters to more than 275 people with outstanding municipal traffic and criminal warrants, notifying them that the department is offering amnesty through the end of March. The amnesty gives people the

chance to resolve the warrants without facing arrest.

**NEW MEXICO** — Bernalillo 911 dispatcher Sean Haaverson recently talked a distraught 10-year-old caller through a successful Heimlich maneuver — on a 3-year-old boxer. Initially thinking that the choking victim was a child, Haaverson quickly modified his instructions when he found out that Brittany was a dog. As a reward, the grateful family gave him one of Brittany's 5-week-old pups.

**TEXAS** — Henry Lee Lucas, the 64-year-old convicted murderer who confessed to over 600 killings nationwide and then later recanted, was found dead in his cell March 12 at the Ellis I prison unit, where he was serving sentences for nine murders. In 1998, then-Gov. George W. Bush commuted Lucas's death sentence for a 1979 slaying to life in prison because of flimsy evidence. Among the confessions that Lucas recanted was the 1976 shooting death of Huntington, W. Va., police officer Clemmie Curtis, which was originally labeled a suicide.

Former Houston police officer Ernest Jackson II, who was charged with aggravated sexual assault of a child, was sentenced March 14 to eight years of deferred adjudication probation, in exchange for a guilty plea. Jackson must perform 800 hours of community service, pay a \$7,500 fine, attend sex abuse counseling and have no contact with the child, who is a relative. He must also register as a sex offender for the rest of his life and can never again work as a police officer. If convicted of another sex offense, he would automatically get a life sentence. If he successfully completes the probation, he will not have a felony conviction on his record.

Corpus Christi police Cmdr. Bryan Smith has drafted a proposal to eliminate the DARE program and replace it with a new program created by local police and school officials. Smith feels DARE is a good program, but believes it may be too rigid to address specific problems in the city's schools. Under Smith's plan, the five DARE officers, along with three crime prevention officers, would join eight other officers in the Directed Patrol program. These 16 officers would be assigned to districts divided along middle school boundaries and would coordinate with educators, parents and students.

After nearly a decade of declining crime rates in San Antonio, the number of property crimes rose by 11.3 percent last year. Police there say they have been fighting an increasingly pitched battle against petty thieves and that these crimes, while seemingly benign, confront police with potentially violent situations. Last month's slaying of SWAT team officer John "Rocky" Rojas, by a suspect with a long criminal history that included vehicle theft and burglary, underscored the potential for violence in property-crime situations. Police Chief Al Phillipus said he has also asked prosecutors to begin seeking sharper penalties for repeat offenders such as shoplifters.

**UTAH** — Provo police want to expand a data base network, CopNet, to include law enforcement agencies throughout Utah County. Provo officers are equipped with laptops that allow them

to access police data bases sponsored by the county and state, and would give them access to information that could essentially help resolve crimes more quickly. The City Council was to vote on the proposal on March 20.

In Davis County, a combination of a mostly white population and less-stringent gang enforcement has reportedly made the area attractive to white supremacist groups. Seventy-five supremacists now live in the county, with nearly a third of those having moved in during the last six months.



**CALIFORNIA** — All sworn officers, dispatchers and secretaries in the Berkeley Police Department will have to take mandatory classes on gay, lesbian, bisexual and transgender issues. City Council member Kriss Worthington, who is gay, proposed the training last year after gays stormed police headquarters in nearby Oakland to protest the mistreatment by police of a transgender woman who was an assault victim. The course, which will be led by a consultant and a transgender San Francisco police officer, will cover everything from terminology to housing transgender arrestees. [See also LEN March 15, 2001.]

Police in South Riverside have closed down a home-based methamphetamine "factory" that they believe may have been producing \$3 million of the drug each week. Several agencies helped in serving a search warrant after a six-month investigation by the West County Narcotics Task Force. Police arrested six people and recovered more than \$13 million of liquid methamphetamine, guns and cash. Sixteen officers, the suspects and a police dog had to be decontaminated after the raid.

The Los Angeles City Council has called for an outside consultant to help determine whether police officers should be allowed to work four 10-hour shifts instead of the standard five-day work week. Managers say that the plan would reduce the number of officers in the field and make them more costly to deploy, but the Police Protective League maintains that the flexible work schedule could help with recruitment and retention.

A state appellate court has ordered a San Mateo County judge to reconsider a 25-year-to-life sentence that was imposed under the three-strikes law on a man who failed to reregister with police each year as a sex offender. Ross Cluff, a convicted child molester, was subject to a lifelong registration requirement, and had to reregister every time he moved. A subsequent change in the law required him to reregister annually whether he moved or not. Cluff, who did not reregister for three years, was told that notice of the statutory change was stated clearly on his 1995 registration form. Appellate court Judge Joanne Parrilli said that the three-strikes legislation was not intended to be used as a nuisance statute to rid society forever of persons who fail to meet technical requirements.

Prosecutors in Monterey County have dropped rape charges against Pasadena police Cpl. Kevin Chinook, who was accused of sexually assaulting a woman in his hotel room while attending a law enforcement seminar in Pacific Grove. Chinook's attorney said that his client was the victim of a false accusation and that an investigation had raised serious questions about the accuser's past.

Los Angeles City councilman Mike Feuer has proposed a ban on sales of small handguns known as "pocket rockets." Despite the opposition of gun owners, who say such a ban would be unreasonable, Feuer said that the police department's gun unit, the police commission and Police Chief Bernard Parks all support the proposal, on the grounds that these types of guns are commonly used in crimes because of their concealability.

After only three months on the job, San Jacinto Police Chief Stuart Heller has addressed more than 30 recommendations made in two department standards audits. The changes made to date include the drafting of a new police manual, updating the citizen and personnel complaint process, and improving communications with the officers. In addition, the department is creating a community oriented policing program that has put a DARE officer back into the school district, extended lobby hours at the police department, and started foot patrols in downtown areas.

In Los Angeles, Steven Smiley, who sent explosives aloft in helium-filled trash bags, was arrested after one of the devices landed on the sheriff's station and exploded.

**IDAHO** — In Coeur d'Alene, members of the Aryan Nations white supremacist group say they should be allowed to carry loaded firearms during a parade. The group, which was given permission to march three days after the local Independence Day parade, say that the permit that bans them from carrying firearms or other weapons should be amended since the city allows military veterans to parade with firearms.

**NEVADA** — The Las Vegas Metropolitan Police Department has fired Sgt. Debra Gauthier for allegedly taking a drug informant into her patrol car and asking him to pray with her. Gauthier supposedly asked Jesse Kent to close his eyes and asked the Lord to change Kent's "lifestyle" — which Sheriff Jerry Keller believes was a reference to a gay lifestyle — and save his soul. The sergeant also allegedly told Kent that God didn't want him to provide police with any more drug tips. Gauthier claims that she only prayed with the man and denies the rest.

**WASHINGTON** — Police have interviewed two teenagers and are seeking a third man who they believe witnessed the shooting of Des Moines police officer Steven J. Underwood. Underwood was killed March 7 when he stopped four teens on Pacific Highway South after recognizing one of them from a felony warrant. Charles S. Champion, now the suspect in the shooting, was wanted on a charge of assaulting his 15-year-old pregnant girlfriend. Prosecutors may seek the death penalty for Champion and have not ruled out the possibility that the three witnesses may have had a role in the shooting.



## Money talks

If they were reclusive before, winning a record \$85-million Texas lottery jackpot this month has done nothing to make Austin Police Officer Robert Chody and his wife, Beverly, any more willing to talk about the details of their lives.

"There's really not any fears of everybody knowing," Beverly Chody told The Fort Worth Star-Telegram. "We just wanted to make sure that our stability was taken care of first."

The couple went into seclusion after learning they won first prize in the Lotto Texas on March 7. The quick-pick ticket she bought in an Austin convenience store just hours before the drawing contained the numbers: 10-31-36-37-45-51.

"At first it was just amazement," she said. "It's been very shocking to know that we won all that money. But I had a good feeling that night, and I stayed calm. He didn't believe me at first."

Robert Chody, a senior patrol officer who has been with the Austin Police Department for five years, said at this point, he planned to stay with the agency, but it was something that would have to be discussed. "I love working with these people," he said.

The Chodys, who celebrated their 12th wedding anniversary on March 18, opted to take a lump-sum payout of \$51.2 million under a new partnership called RBH CNC Ltd. Just as they declined to say where they were from, the couple also declined to say what the initials stood for. The partnership was formed to help minimize tax liabilities and remove complications associated with transferring the money to heirs or giving some of it away in the form of gifts. Any plans they might have for their winnings, however, they are keeping to themselves.

Any trips to exotic places? "Maybe Hawaii?" they mused.

The Chodys were joined at the news

conference to announce their winning ticket by several other Austin police officers, including Chief Stan Knee, as well as family and friends. "I'd just like to announce that I'm promoting this fine officer to assistant police chief," the chief quipped.

## Prophecy fulfilled

When Janice Freehling applied for a job with the Altoona, Pa., Police Department in 1976, she told city officials that one day she planned to be running the agency. It is hard to know now which surprised them more — that an applicant would have the gumption to make such a claim, or that a female would presume to think that she had the right stuff to run an all-male department.

Freehling was hired as an officer, becoming the first sworn female member of the force. A little more than 24 years later, she made good on her earlier bold prediction when she was appointed police chief in March. "I just thought that any job I was hired at...there was no reason not to be as good as I can be."

Freehling, 47, who received a bachelor's degree in criminology from Indiana University of Pennsylvania in 1975, was promoted to captain and named second-in-command in 1997, then won the top job after Chief John Treese retired in February.

Although she may not be as strong physically as a male officer, Freehling believes she is just as tough — maybe even tougher — mentally. Her years on the force have included some incidents which she said she still finds wrenching: a house fire that killed two children a decade ago, and an ambulance ride with a fellow officer who was shot in the face by a probation violator.

Some officers may have had reservations about her, but Freehling said they were not vocal and there have been few onerous instances of discrimination

or rejection along the way.

"She never felt that she was fighting a battle for women," said William Haberstroh, who served 12 years as the Blair County district attorney. "Being a female of the species didn't make any differences. She's every bit a cop."

Even the head of the local Fraternal Order of Police lodge was impressed. "She got this position on merit," Oet Michael Stirk told The Pittsburgh Post-Gazette. "She's very intelligent. She paid her dues."

## Worth the weight

Wurtland, Ky., Police Chief Phil Piercy has returned to a familiar old hobby — weightlifting — with a familiar degree of success. A former Marine who competed successfully during the 1980s, he claimed the natural division crown at the Power Sports National Championships competition in Nashville last month.

"I just competed on and off for a while when I was in the Marine Corps and I stopped weightlifting and started boxing," said Piercy. "I didn't like losing the weight so I went back to weightlifting."

Piercy, who at 6-feet tall and 200

pounds is considered small by weightlifting standards, won the deadlift in his division and claimed the title in the submasters division by bench-pressing 320 pounds. In all, he lifted a total of 959 pounds.

The natural division in which Piercy competed is for participants who do not use anabolic steroids or other drugs.

After 12 years away from competition, he said, it was hard coming back. "I had only been lifting since March," said Piercy. "Lifting weights has to become a habit. It's not like smoking; it's not easy to get back into it."

## Car tunes

They may sound like the alternative rock-rap band Limp Bizkit, but the message that a Newark, Calif., police trio sends to teenagers is pure public safety.

While they have not as yet named their group, Officers Will Palmi and Shawnacy Nauroth, along with their boss, Lieut. Lance Morrison, have two songs on the "Cops on Patrol" CD released in March by several San Francisco Bay area law enforcement agencies. The disc was made in conjunction with the Chief Operator Teen Oriver

program, an organization founded by Palmi's father, Albany police Lieut. Bill Palmi, which recently received a three-year, \$1.1-million grant from the California Office of Traffic Safety.

Other Bay Area law enforcement agencies that have songs on the disc include the Hollister police with "Oon't Take My Child," and the San Jose police with "Cell Your Phone."

On songs like "Nothing But Trouble Oriving on Crank" and "Oesignated Oriver Blues," the younger Palmi's band sings as much about drugs as it does about safe driving. "This is a traffic safety program, but it's more than that," he told The Associated Press. "It's a way to reach out to kids in the community and recruit them to be safety ambassadors. They're learning traffic safety in a positive, upbeat way — and it's not boring."

In the future, the group plans to expand its message to cover other teen issues, including smoking, alcohol use and pregnancy, said Palmi. "The kids I've handed the CD out to say things like, 'Hey, there are cool cops.'" That helps the officers, who spend much of their off-duty time practicing and visiting schools, he said. "[Police officers] want people to talk to us."

The elder Palmi has for years done Elvis impersonations in schools around the country. Performing with his group Elvis and the Lawmen, he has traveled to 15 states and Canada, releasing three CDs along the way.

In the Newark group, Will Palmi is the lead vocalist, with Nauroth on drums and vocals, and Morrison, who writes most of the songs, on guitar. "It's received great reviews. Kids go crazy for it," Palmi said of the "Cops on Patrol" CD. "This bridges a huge gap. It shows that police officers can have fun. It just makes you feel really good to help out on a different level."

## Press "clear"

The words "Let's go to the videotape" may have never sounded so sweet to a New Jersey state trooper as they did in February when a judge ordered a Pennsylvania man to pay \$35,000 in damages for falsely accusing a trooper of "reverse racial profiling."

State Police investigators cleared Sgt. Lawrence Gegan after viewing the tape from his in-car video camera, which showed the sergeant acting properly while issuing a ticket to Thomas Golden for speeding and attempting to leave the scene of a traffic stop.

Golden had filed a complaint with the agency's internal affairs bureau, claiming that Gegan had pulled him over in an attempt to balance out the number of white drivers pulled over with the number of blacks. Gegan, he said, pinned his hand to the car door with his weapon and threatened to yank him from his vehicle and put him in jail.

A suit was filed on Gegan's behalf by the State Police sergeants' union. "It is unfortunate that individuals use racial profiling as a weapon against troopers who courteously and effectively perform their duties," said the group's president, Sgt. Jon Hannigan.

John Hagerty, a State Police spokesman, said that in more than 50 cases stemming from motorists' complaints, videotapes have shown troopers to have been acting appropriately.



GOING DOWN: With spotters standing by, Chief Phil Piercy squats en route to a recent submasters division weightlifting victory.

## Now you see them, now you don't

After getting fired and then reinstated three times during his seven-year tenure, Rockton, Ill., Police Chief Richard Meacham said he is finally leaving for good on May 25. The village will pay for four years of health insurance coverage for Meacham, as well as provide early retirement incentive that would buy him out for five years of service. The package could cost the village more than \$100,000.

Meacham is unsure what he will do next, but one thing is certain, he said: "I am not going to be back as a police chief.... It would have to be something part-time, maybe a greeter at Kmart or something, definitely something less stressful."

Meacham was one of three chiefs this month who resigned under pressure. In Johnstown, Pa., Police Chief Robert Huntley opted to quit rather than be fired after eight years in the position. Huntley, 48, led a department which the Police Executive

Research Forum last year reported had a history of "infighting, backbiting, envy, jealousy, anger and fear." One member of the department is under federal investigation for brutality, and the Justice Department is considering a probe into racial profiling by Johnstown officers.

In Bull Shoals, Ark., Police Chief Robert Chapman resigned on March 17 after accusing Mayor Loren P. Thompson of micromanaging the department and damaging the prosecution of drug cases by giving defense attorneys more information than requested.

A 30-year veteran of law enforcement in California and Arkansas, Chapman was named chief in 1999 after five years with the Bull Shoals force. One year later, however, his law enforcement certification was revoked by the state's Law Enforcement Standards Commission. Chapman had apparently pleaded guilty in 1967 to a federal car theft charge and was placed on probation under the

Youthful Offenders Act. He said he was told that his record would be expunged and his rights restored once he completed probation.

While the commission voted unanimously to reinstate his certification in October, the board of Arkansas' chiefs' association revoked his membership.

After just three months as state attorney's investigator, Rick Lincoln was named Lantana, Fla.'s new police chief in March. Lincoln, a former Law Enforcement Director for the Palm Beach County Sheriff's Office, replaces Robert Chalmers, a 20-year veteran who is leaving the Lantana force after six years at the helm to work in Kosovo with the United Nations International Police Task Force.

Mulberry, Fla., officials swore in Oon Jones as police chief on March 15. A former deputy chief and acting chief of the Lakeland, Fla., Police Department, Jones replaces John Hunter, who retired in February.

Muscle Shoals, Ala., Police Chief David Underwood, 54, died on March 18 from complications following heart surgery. A 30-year veteran who led the Muscle Shoals department for nearly 12 years, Underwood underwent surgery this month to replace an artificial valve inserted into his heart in 1995. Assistant Chief Robert Evans was named acting chief.

Gene Ellis of Jacinto City, Tex., will assume command of the Spearfish, S.O., Police Department at the end of April. He was selected out of a pool of seven finalists.

In Towanda, Kan., Tim Stock became the city's third chief in 18 months. Stock, who served three years as police chief in Osborne, replaced Dave D'Donnell, who resigned in February when his wife took a job in Olathe. Kurt Spivey, who led the agency prior to D'Donnell, abruptly resigned in 1999, as did most of his police force, citing differences with the City Council.



# Sheriffs get A's for handling of child abuse

Florida's experiment with taking the investigation of child abuse and neglect out of the hands of the state Department of Children and Families (DCF) and placing it under the purview of county law enforcement has garnered some encouraging early reviews by criminal justice and child-welfare experts.

Over the past three years, sheriffs in Pasco, Pinellas, Manatee and Broward counties have taken over child protective services as part of Gov. Jeb Bush's plan to privatize services for children and families. Within two years, according to state officials, the 27,000 employees who now work for DCF could shrink to as few as 1,200.

The reform began in 1998 following the death of 6-year-old Kelly McKean, who was beaten to death by her father after several reports of abuse failed to be thoroughly investigated.

"Everyone else was running from the issue; the question was, if not us, then who?" Broward County Sheriff Ken Jenne told *The Detroit Free Press*. In 1999, his agency launched its Child Protective Investigations Section, with five sworn personnel and about 13 former DCF employees. While 50 had applied, most were eliminated for failing to pass hiring guidelines, such as drug screenings, polygraphs, criminal background checks and mental-person-

ality tests.

Jenne, a former state legislator known for his political skills and his ability to cultivate state funding, was awarded \$5.6 million from Tallahassee in 1999 and \$10 million last year to hire and equip a staff of nearly 100. Wearing khaki pants and polo shirts with the department's logo, the unarmed investigators drive county-owned vehicles, carry laptops computers with wireless modems, cell phone-radios and Polaroid cameras.

Yet social workers remain skeptical of giving control of child protective services to law enforcement, fearing that police will be less likely to work with families and quicker to remove a minor from the home. Said Linda Spears, director of child protection for the Child Welfare League of America: "What I see when law enforcement does this alone, is that they make what I would call a quick decision that doesn't reflect the nuances of child abuse or neglect."

Either they will dismiss what does not fall under their criminal justice mandate, said Spears, or remove children and hand them over to social services.

"It's a headache," Jenne agreed. "It's a lot easier to stop someone from speeding than to carry on this activity. It's

difficult, it's charged with emotion, and, frankly, it's just a pain in everyone's rear. But the truth is, it's the right thing to do."

The federal government reported in March that 826,000 children were the victims of abuse and neglect in 1999. The figure, however, reflected a 19-percent decline since 1993, when the number of abused children reached 1,018,692. Some 1,100 children died in 1999 as a result of abuse or neglect, 43 percent of them less than a year old.

Under the Broward County program, every report of child maltreatment is overseen by an analysis unit in the sheriff's office where names and addresses are checked through law enforcement computers. Before an investigator is even assigned to the case, a complete background report is prepared. Jenne was able to forge agreements with other law enforcement agencies to accompany his investigators when they make home visits so that possible crimes uncovered there can be passed on to the appropriate department's detective bureau.

The shift from social services to law enforcement has caught the attention of other states. In Michigan, a bipartisan committee of legislators was scheduled to meet this month to discuss child welfare issues, including the creation of a

multiagency police unit organized by the Wayne County Department of Community Justice. The squad helps protective services investigators with difficult child-removal cases in Detroit and Wayne County.

The issue had come to a head last September when a Port Huron Township couple were sentenced to 30 to 60 years for second-degree murder and 7 to 15 years for first-degree child abuse in the death of their 2-year-old daughter, Ariana Swinson. The child died on Jan. 31, 2000, after suffering a 4-inch skull fracture and then being fed water while unconscious, causing her to drown, according to a medical examiner's report.

The University of Pennsylvania's Center for Children's Policy, Practice and Research is expected to complete its evaluation of the Broward County program in the next few months, but for now researchers seem pleased with the initiative. Richard Gelles, chief researcher and well-known critic of child welfare systems and their emphasis on family reunification, told *The Free Press* that one cannot help being impressed by the "organization and professionalism" of the entire enterprise.

"The uniforms, the cars, the computers, the modems are more than simply technological artifacts," he said.

"They denote seriousness of purpose."

It is still too early to tell, however, whether the unit is doing a better job than the Florida DCF was, Gelles said. It may be Florida's new policies and laws that are responsible for a slight increase in the number of children removed from homes, he said.

While DCF was averaging about 650 reports a month in 1998, the Broward CPI Section handles more than 1,000. Statewide, calls to a hot line grew from 120,000 in 1998 to 180,000 last year.

According to the American Humane Association, 26 states are implementing ways to bring law enforcement further into the picture.

In Michigan, protective services investigators are encouraged to ask for police backup when they visit a home, although many say they do not have the time to wait for officers. Richard Bearup, a vice president for Lutheran Child and Family Services, believes that in order to adequately investigate child abuse cases, child protective services personnel need more law-enforcement training.

"The power to remove children from their home and their families, if not a police power, is as close to a police power as one can get," he told *The Free Press*.

To a noticeable degree, cases in Broward County are now more thoroughly investigated than they were under DCF, said Dale Ross, chief judge of the county's Circuit Court. "The professionalism of the work has been raised," he said. "From the court's point of view, judges feel much more confident and have a greater degree of reliability on the results of the investigations."

## Just the facts, ma'am:

# Police, press duel over info access

The interpretation of guidelines handed down last year by the Illinois Supreme Court have some legal experts and prosecutors protesting that law enforcement agencies are going too far in restricting the news media's access to basic information on crimes ranging from murder to car thefts.

Last year, the state adopted the American Bar Association's Model Rules of Professional Conduct, intended to limit pretrial publicity, which advise lawyers against talking about confessions, physical evidence or the

possibility of a guilty plea. Prosecutors are also held responsible, under the rules, for making sure law enforcement officers do not say anything that could affect a defendant's right to a fair trial.

Officials, said the court, "shall exercise reasonable care to prevent investigators, law enforcement personnel... from making an extrajudicial statement" that would prejudice pending cases.

But some contend that police in a number of jurisdictions have taken that to mean that even public records can be held withheld from reporters.

"The rules don't regulate police," said J. Steven Beckett, director of trial advocacy at the University of Illinois, who helped draft the guidelines. "Police aren't under the jurisdiction of the Illinois Supreme Court. I think some people used them as a way to get back at the media in a way that was inappropriate," he told *The Associated Press*.

Last August, 10 prosecutors filed a lawsuit that would overturn the rules, but a federal judge dismissed the case on the grounds that nobody had been disciplined for violating the strictures.

In Peoria, police have denied access to any report involving juveniles, whether those juveniles are the victims or the offenders. During a news conference last fall, officials refused to reveal the name of a woman found murdered in a basement. They would not say how she died, the identity of the man arrested for the crime, what charges they were planning to seek or why she was murdered.

The Peoria County Coroner later released the name of the victim, Tina Vilardi, 26, who was stabbed 31 times.

"The Supreme Court issued those rules in consideration of victims and suspects," Peoria Police Chief John Stenson told *The AP*. "Our position is

that anything that makes a trial fairer for both sides is something we support. We give more information than some do. We think we're in compliance."

Police and the press clashed this month in a number of other cities, including St. Louis, where a Missouri Court of Appeals upheld a lower court ruling which found the city's Board of Police Commissioners had violated the state's open meetings law.

The court affirmed an injunction issued by Circuit Judge Robert H. Dierker Jr., which barred the board from holding closed sessions where it discussed the police list of employees, adoption of rules and proposed or pending legislation, the lobbying of state legislators, staffing levels and the police budget.

Dierker's ruling stemmed from a suit filed in 1998 by *The St. Louis Post-Dispatch*. The paper sued the board over its refusal to allow access to financial records, board minutes and crime reports.

In Massachusetts, state Attorney General Thomas F. Reilly this month said he remained opposed to releasing records of citizens' complaints against members of the Worcester and Auburn police departments.

Reilly said his refusal is based on a June 2000 ruling by the state Supreme Judicial Court in a case involving the Wakefield Teachers Association and the Wakefield School Committee, which held that disciplinary files were not a matter of public record.

At issue are two lawsuits brought by *The Worcester Telegram & Gazette* seeking access to 125 internal affairs files from the Worcester Police Department and a record of complaints from the Auburn agency.

The City of Worcester contended

that the Wakefield decision is applicable to police files, a position the Court of Appeals rejected. The appellate ruling notwithstanding, Reilly has denied release of the information. "It's a matter of interpretation of the law," he told *The Telegram & Gazette*.

In February, a judge ordered the Harris County, Tex., Sheriff's Department to release documents that detail deputies' use of force against inmates. The *Houston Chronicle* had filed suit seeking access to the files, after a deputy was fired for threatening inmates and using racial slurs.

The judge's ruling was consistent with an opinion issued by the state attorney general last November, which found that basic information about excessive-force allegations is not exempt from the law.

Sheriff's department officials said they will appeal the decision to the Third Court of Appeals in Austin. The agency is now facing lawsuits from nine alleged victims who claim deputies used excessive force against them, said Bill Ogden, *The Chronicle's* attorney.

"These are records that are very clearly in the public domain," he told *The San Antonio Express-News*. "Rather than simply turn them over, the sheriff's department has spent six months and thousands of taxpayer dollars in refusing to release the most basic data."

In San Antonio, the police department is in midst of a legal skirmish of its own over the release of forms that document when officers use force to subdue suspects. The agency is contesting an appellate court ruling that would force it to release the information. Unlike Harris County, which claimed the files were not public records, San Antonio police cite personnel reasons for denying access to the forms.

## Anybody home?

### Officer Next Door program shelved

The U.S. Department of Housing and Urban Development has suspended the Officer Next Door program after uncovering widespread fraud among participants who were given deep discounts to purchase homes in troubled neighborhoods.

Officers were found buying HUD-owned properties at 50 percent below market value, then renting them out, or re-selling them at a profit before the end of a three-year contract made with the agency. Nine felony convictions and 15 indictments have stemmed from the abuse. [See *LEN*, March 15, 2001.]

The program will be suspended from April 1 through July 31. "The vast majority of officers and teachers who buy houses through these programs play by the rules," HUD Secretary Mel Martinez told *The Chicago Sun-Times*. "The oversight measures simply need strengthening."

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# Suit seeks return of Mass. retirement age

Younger officers with the Massachusetts State Police, who have filed suit seeking to reinstate the agency's former mandatory retirement age of 55, suffered a setback in the case when a federal judge on March 29 rejected their request for a preliminary injunction.

The lawsuit, filed on behalf of some 115 troopers, claims that abandonment of the mandatory retirement age has thwarted the vertical mobility of younger members of the organization by allowing senior officers to remain on the job indefinitely.

Reinstating a mandatory retirement age, as the lawsuit seeks, would ensure that troopers are physically fit and would restore opportunities for promotion within the State Police, said Michael C. McLaughlin, the lawyer who filed the suit in U.S. District Court in Boston.

"The reality is that there are people who cannot advance," McLaughlin told *The Worcester Telegram & Gazette*.

"We have people who have advanced because of the retirement age who now don't want to go.... All these guys (who support the retirement age) who got good test scores have to sit there."

The age cap had been thrown out in 1998 by U.S. District Court Judge David J. Mazzone, who held that it violated federal age discrimination laws, ruling in favor of 40 troopers who did not want to be forced off the job at 55. Since no one appealed Mazzone's ruling, said James B. Conroy, an attorney for one of the defendants in that case, McLaughlin's lawsuit should be dismissed — an idea now under consideration by U.S. District Judge Patti B. Saris.

Saris cast something of a pall over the younger troopers' lawsuit with her recent ruling denying their request for immediate reinstatement of the retirement age. She held that a U.S. Supreme Court ruling in a Florida age-discrimination case cited by the plaintiffs had

no bearing on the Massachusetts issue.

Saris went on to say in her ruling that she felt the younger officers are unlikely to win their case if it goes to trial.

Saris is also considering an injunction that would prevent the state police from putting a new list of promotions into effect until the lawsuit is decided.

The defendants in the case include Secretary of Public Safety Jane Perlov, state police Col. John DiFava, and the executive director of the state retirement board, Ellen Philbin.

The Supreme Court decision cited by the plaintiffs, and rebuffed by Saris, was handed down by in January 2000

in the case of *Kimel v. the Florida Board of Regents*, which held that states are immune from Age Discrimination Employment Act suits brought by individuals in federal court.

The ruling also says that states may impose mandatory retirement when it has a basis for doing so, citing the Court's 1976 decision that upheld a Massachusetts law requiring troopers to retire by age 50. In a 7-1 ruling, the Court said at the time that the state did not have to meet the constitutional standard where physical fitness was involved in the job.

"We could have 75-year-old state police troopers," McLaughlin scoffed.

"That's absurd from a public safety point of view.... Imagine if you had a 75-year-old fireman. This is not an anti-age position. There are areas where age is relevant to the position...."

State Police Capt. Charles Flynn, who said he was over 50, said reinstatement of the 55-and-out policy at this time "would cause a mass exodus in the department."

But Sgt. Michael Craven, a plaintiff in the new lawsuit, countered that the older officers would be retiring with 75 percent of their pay. "We're not saying they should get nothing," he said. "And at their salaries, they could live pretty well on 75 percent of it."

## American Indians leading the pack as violent-crime victims

When it comes to violent crime victimization, no racial group in the United States has it as bad as American Indians, who sustain per-capita rates of violence that are two and a half to five times higher than those for blacks, whites and Asians, according to a recent report by the Bureau of Justice Statistics.

And, while victimization rates for blacks, whites and Hispanics fell by double-digit percentages between 1993 and 1998, violence against Native Americans showed virtually no change over that period.

In "Violent Victimization and Race, 1993-1998," released in March, researchers found that overall, victimization rates for whites fell by 29 percent, for blacks by 38 percent and for Hispanics by 45 percent. Asians, like American Indians, showed no measurable change in the rate of violent crime victimization.

Unlike African Americans and whites, who were victimized largely by members of their own races, violent crimes against American Indians continued to be primarily interracial, said the report. Roughly 58 percent of American Indians victims identified offenders as white. In 10 percent of cases, the offender was identified as black, it said, and about 25 percent of time, as of "other races." Conversely, whites identified their attackers as white 66 percent of the time, and blacks were victimized by members of their own race in 76 percent of cases.

White-on-black crimes represented 12 percent of cases, while blacks preyed on whites 17 percent of the time.

Findings on rape, sexual assault, robbery and assault were based on data from the BJS National Crime Victimization Survey, while homicide data came from the FBI's Uniform Crime Reporting program.

Each year until 1997, the victimization rate for blacks was significantly greater than it was for whites, the study noted, but in 1998, the overall decline in crimes against African Americans narrowed the gap. That year, 43 African Americans per 1,000 population fell victim to crime, as did 38 whites per 1,000 and 22 Asians per 1,000.

American Indians, however, were victimized at a rate of 110 per 1,000.

Location did not seem to matter, said the study. American Indians in urban areas sustained overall violence at about twice the rate of blacks and whites, and five times the rate of Asians. In rural

areas, they were nearly three times more likely to be the victims of aggravated and simple assaults as whites, and twice as likely to be the victims of rape or sexual assault.

American Indian victims were more likely to fail to report violence to police because they considered it a personal or private matter, said the report, a fact that was particularly true for crimes involving domestic violence. Black, white and American Indian women were all more likely to be hurt by someone they knew than were Asian women. However, American Indian women were victimized at a consider-

ably higher overall rate than the other groups — 23 per 1,000, as compared to 11 per 1,000 for blacks, 8 per 1,000 for whites and 2 per 1,000 for Asians.

The report also underscored a murder rate among blacks that was nearly six times that of whites. In 1998, 23 African Americans per 1,000 population were murdered, compared with 4 whites per 1,000 and 3 per thousand for other races. From 1976 to 1998, said the study, 94 percent of black homicide victims were killed by blacks, with stranger homicides more likely to cross interracial lines than ones committed by friends, acquaintances or intimates.

## Gas-sniffing is fiery craze for Canada's native youth

Victims of crushing poverty, abuse and neglect, dozens of children belonging to the Innu Nation in Labrador, Canada, have become addicted to sniffing gasoline, say social workers who became involved in the case last year after the provincial government removed more than 20 youngsters from their homes.

On Nov. 20, 2000, government health-care workers were sent to the village of Sheshatshiu to assess the children. Twenty-one of the most seriously addicted were subsequently taken to a military base in Goose Bay. "The safety of these children is the paramount issue," said Paul Rich, Innu tribal chief. "The ongoing situation is drastic, and we need to take drastic measures. We insist that these children be taken into care immediately," he said in his statement to officials.

In Sheshatshiu, where 1,200 of the 2,000 members of the Innu tribe live, several of the children have reportedly become brain damaged from sniffing gasoline. During the past year, an 11-year-old boy died after setting himself on fire, and several others were severely burned after accidentally going up in flames. More than half of the 300 children in the village between the ages of 5 and 14 have inhaled gasoline, and at least 20 percent are regular users, according to a report in *The Detroit Free*

Press. Among the village's adult population, half are addicted to alcohol and 28 percent have attempted suicide.

In Davis Inlet, another Innu community in Labrador, 90 of the 154 children there are addicted to sniffing gasoline, and even some 6-year-olds have sniffed at least once. The Innu, whose suicide rate is 13 percent higher than that of the rest of Canada, have been called "the most suicide-ridden people in the world" by Survival International, a human-rights group.

Policing Davis Inlet is said to be so stressful that the three Royal Canadian Mounted Police officers stationed there are on a two-week rotation, working two weeks and then being flown out for two weeks. The children sniffing gas are easy to spot, said one officer. They do not put their arms through their coats so they can draw the bags of gasoline to their chests, sniffing the fumes up through their jacket collars.

They are not allowed to take the bags of gas away from the children because sniffing gas is not illegal. "All we can do is put them out when they set themselves on fire," one officer told *The Free Press*.

Of those children taken from their homes last year, only two have been returned to the village. The others have been placed in foster homes or in some other type of alternate living arrangement.

## Line-of-duty deaths in steep drop in '99

The number of line-of-duty deaths of law enforcement officers fell sharply in 1999 to its lowest point since the mid-1960s, according to an FBI report released in March.

In "Law Enforcement Officers Killed and Assaulted, 1999," the FBI reported 42 felonious killings in 1999, 19 fewer than the previous year. Accidental deaths fell from 81 in 1998 to 65 in 1999, with automobile, motorcycle and aircraft accidents claiming the lives of 51 of those officers.

Handguns were used in 25 of the 42 felonious deaths, with rifles in 11 and shotguns in five. Five officers were killed with their own weapons and 27 were wearing body armor, according to the report. The majority came from municipal police departments in the South, followed by county police and sheriff's departments, state agencies and federal agencies. The Northeast experienced the fewest line-of-duty deaths with five, said the report.

The decrease in felonious killings can in part be attributed to a higher number of officers wearing bulletproof vests, said Craig Floyd, executive director of the National Law Enforcement Officers Memorial Fund (NLEOMF).

"We've identified with the IACP [International Association of Chiefs of Police] and the DuPont Co. that roughly 2,500 police lives have been saved in the past 20 years by soft body armor," he told *Law Enforcement News*. "We

know from our statistics whether officers were wearing soft body armor at the time of their deaths. The numbers have been going up percentage-wise over the past couple of years."

Vests, said Floyd, have also been found to protect officers in car accidents and in stabbings.

Tougher criminal justice initiatives have also contributed to the decline, Floyd opined. "I think we're keeping more of the repeat violent offenders behind bars for longer periods of time," he said. "Obviously, those are the criminals who pose the greatest risk to police officers who have to arrest these violent offenders over and over again."

According to the FBI's report, 12 officers were killed while making arrests and six while serving warrants. Eight officers died while enforcing traffic laws. Ambush situations claimed six lives, while seven officers were killed handling disturbance calls and two died in drug-related situations. Seven officers were killed while investigating suspicious persons or circumstances.

During 1999, a total of 55,026 line-of-duty assaults were also reported. The vast majority of these, 81.5 percent, were committed with personal weapons such as hands, fists and feet. Just over 30 percent of these attacks resulted in injury, said the report. Twenty-two percent of the more than 500 officers attacked with knives or cutting instruments sustained injury.

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# You've got hate mail!

## DC police officials find nearly 1 million obscene & racist patrol car e-mails

Still reeling from the shock of finding that nearly one-quarter of 4 million e-mails sent by Washington, D.C. officers during a single year from internal computers contained obscenity or hate-filled language, Metropolitan Police Department officials this month began the daunting task of assessing the damage by categorizing the messages based on content.

The objectionable e-mails sent between computers in patrol cars were uncovered during a routine audit of the department's IT systems, Executive Assistant Chief Terrance W. Gainer told Law Enforcement News. Although the majority of the 900,000 messages contained just vulgar language, many others reflected racism directed at both civilians and fellow officers. They also contained sexual banter, comments about female officers and other women, and derogatory statements about homosexuals.

Among the most egregious, however, were those in which criminal activities were discussed, such as making illegal stops or buying drugs. Gainer said. Police Chief Charles H. Ramsey said he has notified the Justice Department about the possibility of racial profiling being practiced.

While the messages were not released, Gainer paraphrased some examples for The Washington Post, including: "I feel like going out and punching whitey today," "Let's go get some blunt [marijuana] and go smoke and get high," "What do you call a white man in a group of a 1,000 blacks? Warden," and "Let's stop that person because he's dating a white girl."

According to legal experts, the e-mails can be used by defense attorneys as ammunition in sexual harassment suits, or to undermine an officer's credibility while testifying in a criminal case. Gainer said the department has already received subpoenas requesting files pertaining to particular officers.

The Citizen Complaint Review Board plans to ask the department for a compilation of the messages, said Philip Eure, the board's executive director. "Now, if I ask an officer if he has ever used racial slurs, we can ask for all the e-mails that officer has sent, and we will see evidence whether he has or not," he told The Post.

With the help of computer consultants, investigators from the department's internal affairs division will be able to determine which officers sent the inappropriate messages by using a keyword search. Gainer estimates that as many as 10

percent of the agency's 3,600 officers may have abused the system.

The e-mails are being grouped into "different levels of egregiousness," Gainer told LEN. The list that contains those messages that have the potential to be actionable, he said, is being run against open and closed cases of complaints against officers. Officials are also examining lesser disciplinary charges to see if there patterns, such as whether the officer was sent for

**"When it was brought to me, I was dumbfounded."**

— Executive Assistant Chief Terrance W. Gainer

diversity training.

Officers were chastised by elected officials from Capitol Hill this month. Representative Contance A. Morella (R-Md.), who chairs the House Government Reform subcommittee on the District, said, "Anything that interferes with the ability of the Metropolitan Police Department to make the streets of our nation's capital safer for residents, commuters and tourists is not merely a local matter, but one that is of grave concern to Congress as well."

In February, officers were notified that transmissions were being monitored, said Gainer, although the review included e-mails dating back to the previous year. And on March 16, a message was sent to all sworn personnel reminding them of a longstanding rule prohibiting the use of profanity, the discussion of non-police business, slang terms and nicknames over the e-mail system. Following the revelations from the audit, the first step officials took, Gainer told LEN, was to "re-advise the boys and girls of what the policy is in the department."

So far, no disciplinary action has been taken. There is the potential for African American officers who used the "n" word to be dealt with differently, he said. "I think we have to look at the context in which everything is said," Gainer explained. "The

chief is African American and we've had conversation with him and others that it is not unusual in some contexts for African Americans to use such a description when they don't mean it to be racist but it does sound racial."

The investigation could take as long as a month, said Gainer. "I'm going to take very harsh action," Ramsey told The Post. "There is absolutely no room for that kind of behavior in our department."

Police union officials, however, contend that while the messages were unprofessional, department policy had been unclear. Officers should not be disciplined for what they said, but rather the agency should have trained them to know that such communications are a public record, said Sgt. G.G. Neill, chairman of the city's Fraternal Order of Police lodge. "I'm sure if officers realized the communications were in the public review, they wouldn't have said what they did," he told The Post.

But that attitude misses the mark, Gainer told LEN. Using the department's system to air the type of sentiments expressed in the e-mails certainly points to "gross stupidity," he said, but officials are more concerned with the messages themselves.

"The real issue for us is the racist, vulgar, sexist, homophobic things said — not that we had a way to catch them," said Gainer. "When we began the audit, there wasn't this sense of, 'Let's have an audit to check because we may have a problem with what they're saying.' So when it was brought to me, I was dumbfounded."

The MPD is not the first department to have faced this challenge. In Los Angeles, the Christopher Commission found that despite a regulation prohibiting racially or ethnically oriented remarks, a review of mobile data terminal transmissions revealed officers using racial epithets. A number of these, the commission's report said, came from sergeants' field supervisory units.

In Fairfax County, Va., internal affairs investigators routinely pull transcripts every few weeks, said Capt. Jim Charron. The checks have not uncovered anything unusual, he told The Post.

News of the D.C. department's e-mail problem will serve as a reminder to his force, said Charles A. Moose, police chief of neighboring Montgomery County, Md.. The agency will be getting laptops in its cruisers this summer.

### Keeping watch in Calif.:

## Riverside agrees to oversight by A-G

It was with deep misgivings, but members of the Riverside, Calif., City Council last month entered into what is believed to be the nation's first agreement between a municipality and a state attorney general's office to improve the training, monitoring and supervision of the city's police department.

Many council members said they felt that Attorney General Bill Lockyer had made them an offer they could not refuse. A new state law gives his office the authority to bring litigation against

police agencies whose practices violate civil rights, a power usually reserved for the U.S. Justice Department.

Lockyer's five-year plan for the Riverside agency will obviate the need for federal intervention.

"I'm doing my job," Lockyer told reporters after the Council accepted the plan on Feb. 27. "I have a responsibility under the law to see that every person's civil rights are protected."

The action stems from the death of Tyisha Miller, a black woman who was

shot to death in her car by four white police officers in December of 1998. Since that time, the department has been the subject of an investigation by the attorney general. Allegations of racism within the agency were raised when officers were found to have made inappropriate remarks after Miller's death.

Lockyer's remedies for the department include having lieutenants on duty 24-hours-a-day, maintaining a 7:1 ratio of patrol cars to supervisors, and installing video cameras in cruisers.

Another key element of the plan includes showing daily roll-calls on closed-circuit TV to improve the monitoring of officers. Senior officers, including Police Chief Russell Leach, will watch, as will Lockyer's office.

The package will cost Riverside \$785,000 in 2001 and \$275,000 each year after that. It was necessary because local police do not always accept or thoroughly investigate civilian complaints, Lockyer asserted in a draft of a court complaint. They are not ad-

equately trained to avoid unjustified traffic stops, the complaint said, and a lack of staffing precludes community-oriented policing programs.

Some contend that the department has come a long way in the more than two years since the Miller incident. Councilwoman Joy Defenbaugh told The Los Angeles Times that she was disappointed that documents used by Lockyer to support his office's findings do not take those changes into account.

"The things the attorney general is asking for, we either already are doing or already were planning to do," added Nick Goldware, a member of the Community Police Review Commission.

Councilman Ed Adkinson was the only one to vote against accepting Lockyer's plan. "It's been gnawing at me," he told The Times. "I don't think Lockyer has the right to require a higher standard for Riverside than in other cities. That right lies with the people of this city. The leadership of the city belongs to the people of Riverside, and not to the attorney general."

Many officials said they were tempted to fight the plan, but Lockyer insisted that he would easily win a court battle. "I am absolutely positive he would have filed a lawsuit," said Leach. "There was no choice, really."

Sgt. Jay Theuer, president of the Riverside Police Officers' Association, said he was pleased with the remedies Lockyer proposed. "I just don't like the means they went to get there," he said.

## Abuse & harassment by NY police lead to 3-year role for Fed monitor

The Wallkill, N.Y., Police Department will be under the oversight of a federal monitor for at least the next three years, after the Town Board last month ratified the provisions of a 31-page consent decree.

The consent decree, which was approved by the board on Feb. 22, was spurred by a federal civil rights complaint filed in January by New York state Attorney General Eliot Spitzer. "I think it's a shame that it took a gun to the head for them to come to the realization that there's a problem," Oscar Dino, former chairman of the town's volunteer police commission, told The New York Times. "They always thought this would go away and that they could cover this up."

Dino was among those allegedly harassed by Wallkill police officers. After the four-member commission released a report last summer that found officers to be engaging in a pattern of abuse, particularly toward women, Dino said his tires were slashed, a billboard advertising his real estate business was vandalized and his wife was routinely followed by patrol cars.

According to the complaint filed by Spitzer's office, police set up radar checkpoints at the end of the cul-de-sac where Dino lived. Last summer, one patrol car continuously circled his home. When Dino called the department, he was told the officer "must be lost."

The Town Board, which took no

action on the report, abolished the police commission in January.

Spitzer's complaint, which reflected similar findings to those of the commission, said officers had often stopped cars driven by young women and charged them with crimes. The women were then offered the chance to have the charge dropped if they agreed to a date. One officer, it said, repeatedly made lascivious comments to a teenage waitress at a local diner. Another threatened a bar owner who had fired the officer's girlfriend.

The consent decree was "precisely the same" document which Spitzer said he had offered the town before the civil rights complaint was filed. "They are now willing to put pen to paper on a

document that will be a very significant and important step forward for the citizens of Wallkill," the attorney general told The Times. "They will get the type of police force that they are entitled to."

In addition to a federal monitor, who is expected to be in place within the next two months, Spitzer said, all patrol cars will be outfitted with video cameras. The cost to the town will be about \$250,000 over the four years, he added.

Other elements of the agreement include annual evaluations of police officers, the creation of a civilian complaint procedure, a ban on traffic stops for other than law enforcement reasons, and written explanations of the circumstances surrounding all such stops.



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Leftoff:

## Old & new paths to achieving justice

By Sondra Leftoff

In the summer, Chinle, Ariz., is a busy tourist town, the entry point to Canyon de Chelly National Monument of the Navajo Nation. Year round, it is also a district seat of the Navajo Nation Courts and accompanying social service agencies for local chapter houses of the Navajo community.

On the road leading to Canyon de Chelly is an imposing modern building, instantly out of place in the row of small, modest houses used by the Navajo government for various community and social welfare programs. This soon-to-be-functioning, federally funded, detention center for Navajo youth speaks to the conflicts and contradictions in addressing crime in Native American communities. Two systems of law and two systems for dealing with crime exist side by side in this community, with the Navajo judiciary actively developing both its own common law and its own traditional approaches to resolving conflicts in the face of the continued presence of the federal model and federal funds directed to maintaining it.

The battle to reinstate Navajo common law has gained momentum since the late 1970s in the wake of the Tribal Code mandate to apply Navajo customs in the tribal courts. The courts of the Navajo Nation have been viewed as leaders in the movement among Native American tribes to reclaim legal sovereignty and reinstitute indigenous systems of justice after more than 100 years of living with the imposed Anglo-European model.

In 1982, the Navajo judiciary developed the Peacemaker Court as an alternative to the adversarial model that characterized its own court system. Peacemaking had historically been the customary way of resolving disputes among Navajos until it was driven underground in 1892, when the Bureau of Indian Affairs created the Navajo Court of Indian Affairs. It is a community-based process of "talking things out," confronting individuals who have created the problem and reaching a consensus to deal with it. It is based on an egalitarian model of human relationships and a belief that individuals can solve their own problems with guidance from wise elders who can help them reintegrate into a community from which they have been severed. A goal is to reestablish "good relations" between individuals in whatever form

works for them. In this model, incarceration is not relevant as an outcome.

Today, disputants in Navajo Nation courts have access to both adversarial and peacemaking approaches. They may either make voluntary use of peacemaking or be required to do so by a presiding judge. Even when court mandated, disputants may return to the district or family court and the adversarial system of justice. There has been a growing use of the peacemaker court in the last 10 years, because of legislative and judicial action and because of growing community awareness of its benefits. Beyond that, peacemaking has been expanded into probation and a newly developed drug court. On an informal basis, peacemakers may provide a helpful ear to a variety of people in need. In the view of Chief Justice Robert Yazzie of the Navajo Nation Supreme Court, peacemaking is restorative for individuals both on a personal level and as an antidote to the assimilationist pressures that continue to undermine the culture.

The Navajo Nation judicial building in Chinle, is a busy place. Peacemakers wait to meet their clients to engage in a peacemaking session that might take two to four hours, or sometimes even the entire day just to reach an understanding among themselves and to construct a plan to redress the harm done. The peacemaker will receive \$60 for his role no matter how many hours he works, paid by the participants. Navajos believe that justice should be affordable for all. Officially, the peacemaker's role ends when the session or sessions end. Unofficially, however, peacemakers may be volunteer mentors to clients struggling in a less-than-ideal world. For younger people, they possess and can share wisdom and cultural knowledge that is not necessarily available elsewhere. There is no fee for service, for this part.

It's a little slow on a snowy winter day and one of the disputants has not shown up for the peacemaking session. The peacemaker has shown up, however, and now has some time to talk. He has been a peacemaker for many years, chosen by his community for his spiritual knowledge and for his wisdom. He is known outside of his community for his ability to help people resolve their conflicts and may be requested as a peacemaker in settings far from

his home.

He deepens the idea of peacemaking from court option to human relation, as he describes his ongoing contact with clients who may have resolved a dispute, but who are still in need of a wise elder in their life. He shares with them some of his own experiences, his own struggles and his view of traditional values. He has touched the lives of many troubled young people. Speaking of one, he says, "Whenever he needs traditional advice, he comes over. For some, it takes a long time to turn their life around." He gives voice to the Navajo notion that one must keep alive the concept of "a way out" and never trap another person or oneself.

For him, peacemaking is a process that is embedded in Navajo beliefs, which many young Navajos need to learn. A problem becomes an opportunity to learn and to deepen one's knowledge about oneself and one's culture.

In Chinle district, as in the six other districts that make up the Navajo Nation, substance abuse is a ubiquitous problem that is a contributing factor in many of the crimes that reach the local courthouse — unofficially estimated to be as high as 70 percent. Until recently, revolving-door incarceration marked the approach to dealing with these individuals, with little positive impact on their behavior or relations with their family or community.

Last year, the Navajo Nation Drug Court was established to provide an alternative to incarceration, with traditional peacemaking a cornerstone of the project. Individuals accepted into the program are required to go through peacemaking initially and through it, to develop a treatment plan with the help of family, community and peacemaker. The importance of connection to culture and community while finding one's own way out of the substance-abuse dilemma reaffirms Navajo values of personal responsibility in the context of connection and obligation to others.

Initial funding for the drug court project was provided in the form of a three-year, \$300,000 grant from the U.S. Department of Justice. That initial funding ran out this winter, and the entire project has been on fiscal tenterhooks as the federal government only recently approved additional funds to carry the drug court through August. Funding for another two years has been proposed, but approval may not come before the

summer. The Navajo Nation government had provided interim funds to maintain the program temporarily, but in the face of continuing financial uncertainty, at least one drug court district coordinator has already had to resign. If the program should end precipitously, as some officials fear, there will be no opportunity to properly close it out or plan for the change with the 126 clients currently involved.

Down the road from the Peacemaker Court is the Chinle Adolescent Detention Center, which was scheduled to open in March 2001. According to officials involved, the facility will meet a need to have a local detention center for youths, rather than locating them far from home. It will ultimately house 48 youths up to the age of 18 in single-room cells, with a common area for recreation and group activities, all overseen by a staff of 60. The design of the building replicates a traditional Navajo hogan, with cells along the periphery and the common area in the center. When it is in full operation, the detention center will hold inmates for anywhere from a month to two years, offering them access to educational, recreational and counseling programs and skills training. A behavioral management system will be in place to gauge improvements in behavior and provide a basis for moving the individual closer to a reintegration with his or her community. Substance abuse will be one of the categories of offense that will lead to incarceration at the center, although it is not clear at present what relationship there will be, if any, between the drug court and the detention center.

Funds to build the Chinle Adolescent Detention Center came from a combination of the Bureau of Indian Affairs, an arm of the Department of the Interior, the state of Arizona and the Justice Department. Funds for running the center are currently provided through a \$1.4 million BIA contract for the 2001 calendar year. Incarceration is not cheap.

Two systems of law determine justice in the Navajo Nation. There are those who believe only one of those systems is relevant — although there is no clear consensus about which one it should be. Differential funding practices by the federal government for projects that arise out of these two systems may be a deciding factor in determining the outcome of this issue. Lurking behind it all is the great irony that at around the same time the Adolescent Detention Center is swinging into full operation in Chinle, the district drug court may be on life support.

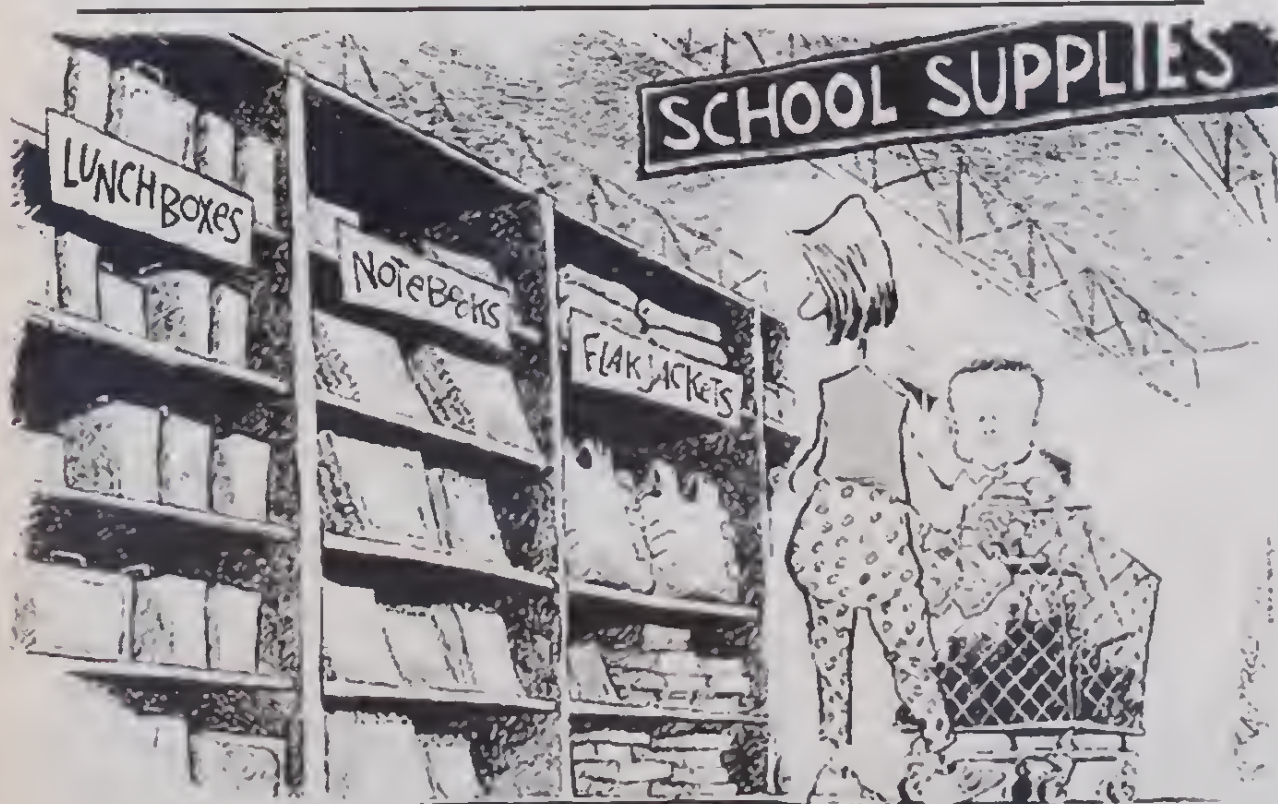
The reliance of the Navajo Nation and other Native American communities on federal funding for their justice programs leaves well-thought-out programs vulnerable to new administrations, some more sympathetic to Native American agendas than others. Of greater long-term significance, it continues to leave these communities vulnerable to federal interference in determining the direction that their sovereign justice systems will take.

(The research for this article was conducted by Dr. Sondra Leftoff, an associate professor of psychology, and Anne Buddenhagen, a lecturer in anthropology, at John Jay College of Criminal Justice, and was written by Leftoff.)

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# Your home may be your castle, but how do you defend it?

Continued from Page 1

ney in January dismissed charges against a Guffey man who shot an intruder that had barged into his home. The case fell squarely under the state's Make My Day law, said prosecutor David Thorson.

The Make My Day law, passed in 1985 as the Colorado Homeowner's Protection Act, allows for self-defense and deadly force if someone enters a home uninvited. To be used successfully as a defense, however, four criteria must be met: The person defending the property must be an occupant; the intruder must enter the house unlawfully and actually be inside the home, not merely over the threshold; the occupant must believe the intruder is about to commit a crime, and the homeowner must have cause to believe that physical injury at the hands of the intruder is imminent.

The problem in South Carolina, according to long-time police scholar Geoffrey P. Alpert, is that the attorney general's interpretation has left "many law enforcement officers unclear as to what constitutes the ability to use force, deadly force, against robbers and people breaking into your home."

Alpert, a professor of criminology at the University of South Carolina, told Law Enforcement News that Condon's policy pronouncement "confuses law enforcement officers and perhaps unfairly hints at the justification of levels of force that really may not be appropriate for property offenses where a homeowner can protect his property with a level of force that perhaps in the past has been limited to protecting his person."

On Feb. 26, Condon sent a letter to Randolph Murdaugh 3d, the solicitor, or prosecutor, for the three-county region that includes Walterboro, saying he believed Gant acted in self-defense and was in compliance with his home-invasion policy. He directed Murdaugh not to prosecute her. All criminal charges against Gant were dropped and she was set free.

Condon's summary dismissal of the charges, said Alpert, is just part of what has law enforcement and the public perplexed. "He overturned decisions made by the police department for reasons that were really not well explained," he said. "I think it's left a very confusing taste in the mouth of the law enforcement community, not knowing

what to expect.

"Clearly, no one had anticipated this interpretation — at least no one publicly had said anything about it, and I think the use of the domestic violence case was a real shocker. That's one of the areas that is extremely controversial and a very high-profile situation in which we need to know a lot more," said Alpert.

Walterboro Police Chief Mike Devin said that he was surprised that prosecutors had let Gant go. "I never agreed on this," he told The Associated Press. "I was not given the option to give an opinion. It just all of a sudden happened."

Condon, who plans to run against the state's Democratic governor, Jim Hodges, in 2002, still contends that Brock's killing was justified by his breaking through Gant's locked door, but says that in the future he will consult with law enforcement before dropping charges again.

"I am not going to be dismissing cases without talking to law enforcement," he said. "There is a conflict on whether they were consulted." Any such discussions should come with "written input from law enforcement."

# Illegal gun buys a snap in 5 states

Continued from Page 1

containing clips of more than 10 rounds is generally illegal, except, as in this case, that both were made before Sept. 13, 1994.

From a Santa Fe, N.M., pawnshop, investigators tried to buy a Intratec 9mm. semiautomatic pistol and a 32-shot magazine. The sale was temporarily thwarted by the NICS system, however, which replied with a delay message when one agent's fraudulent identification was entered. When the agents returned later that day, said the report, the salesperson suggested making a straw purchase using the other investigator's credentials — also fraudulent — which were approved immediately.

In addition, the salesperson suggested that the agents buy a box of 9mm., 124-grain Hydra-Shok jacketed hollow-point ammunition because it was the best he had in stock for penetrating bulletproof vests similar to those worn by police.

In Virginia, an agent using a fraudulent state driver's license and a counterfeit payroll statement with the same fictitious name bought a 9mm. semiautomatic pistol and two 12-round ammunition magazines from a Richmond gun store. According to the GAO report, the salesperson ran a standard instant background check on the fake name, date of birth and social security number, providing the same information to the state police for a state criminal record check required under Virginia law. Both came back immediately with a proceed-to-sell response.

Another agent, using a counterfeit West Virginia driver's license and a fake name, bought a .380 semiautomatic pistol and ammunition from a sporting goods store in Beckley County. According to the report, the initial NICS check came back with a delay response, meaning either that the system was down or the information submitted was similar to that associated with a criminal history.

"The salesperson told the agent that NICS had 3 business days from the time he called in the name-check to respond and that if NICS did not respond within that period, he could sell the firearm to the agent," the report said. "During this transaction, the salesperson states his main concern about a delay of notification from the NICS was the potential loss of the sale."

In this case, however, said the report, NICS approved the sale in less than 24 hours.

While the report underscores the ease with which fraudulent identification can be used to purchase firearms, it also points up another loophole that concerns authorities. In order to keep the screening process in the hands of law enforcement and not gun dealers, a NICS check must be completed within 72 hours — and that has proved somewhat of an obstacle.

During the instant system's first two years in operation, the FBI estimates that 200,000 felons were

able to purchase guns because of incomplete or missing criminal records that kept background checks from being completed within three days. From November 1998 through December 2000, 71 percent of the 9.2 million checks handled by the bureau were completed, according to a report in USA Today.

The problem, said authorities, stems primarily from the criminal justice system's failure to tell the FBI whether an arrest has led to a conviction. More than \$314 million was given to states between 1995 and 2000 to help modernize court records, but officials claim that that

## Background checks are stymied by sloppy court records.

amount has not been nearly enough. While stopping short of putting a price tag on the effort, a task force of state court officials last August acknowledged as only a "positive development" a 1998 federal law that provided \$1.25 billion for court technology.

Stymied by a lack of computerized disposition records that would show whether an arrest led to a felony conviction, the bureau must often depend on court clerks to sift through handwritten accounts, which are often fragmentary. Moreover, the FBI cannot compel states to spend the tremendous funds needed to improve their court records, or force local officials to use the same computer systems. Last year, the assistant FBI director in charge of NICS, David Loesch, told a Senate hearing that the situation was "beyond the FBI's control."

Said Catherine Kimball, a Louisiana Supreme Court justice who leads a court technology committee in her state: "The FBI must be pulling its hair out dealing with these differences in different states." The public, she told USA Today, assumes that criminal histories are both available and up to date at the push of a button, but "that's just not the case. It's a gargantuan problem."

As part of the GAO investigation, agents also tried to purchase firearms over the Internet. Out of 21 advertisements offering firearms for sale, 8 of the 10 sellers to which agents responded said they were licensed firearms dealers and two said they were individuals. The licensed dealers, said the report, would only ship firearms to other licensed dealers and refused to ship to an individual, it said.

The two individuals, however, said they would be willing to conduct the transaction in person. One of them, in Warner Robbins, Ga., advertised a Smith & Wesson .45-caliber for sale for \$390. After the agent assured the individual that he was not a criminal and provided a fictitious name, they agreed to meet at his home. The individual, said the report, told the agent he did not require any identification.

## Headlines are not enough

Affirmative-action programs looking a little black & blue  
The jury is still out on community policing  
It's a mother  
Time to rethink academy & field training  
Maternity-leave

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**Law Enforcement News**

(33101)

A publication of John Jay College of Criminal Justice/CUNY



# Upcoming Events

## JUNE

**4-5. Developing Facilitation Skills.** Presented by the International Association of Chiefs of Police. Westmont, Ill.

**4-5. Executive/VIP Protection.** Presented by the Executive Protection Institute. Chicago. \$395.

**4-6. Advanced Homicide Investigations.** Presented by the Public Safety Institute. Orlando, Fla. \$425.

**4-6. Criminal Investigative Techniques I.** Presented by the International Association of Chiefs of Police. Boise, Ida.

**4-6. Investigation of Computer Crime.** Presented by the International Association of Chiefs of Police. Lakewood, N.J.

**4-6. Contemporary Patrol Administration.** Presented by the International Association of Chiefs of Police. St. Charles, Mo.

**4-8. Criminal Intelligence Analysis.** Presented by the Alpha Group Center for Crime & Intelligence Analysis Training. Columbus, Ohio. \$495.

**4-8. Juvenile Justice Update.** Presented by the Delinquency Control Institute. Los Angeles.

**5-6. Community Policing.** Presented by Hutchinson Law Enforcement Training. Fort Lee, N.J. \$220.

**6-7. Fear Management & Survival Resources.** Presented by the International Association of Chiefs of Police. Edgewater, Colo.

**6-7. Managing Security Systems.** Presented by the Executive Protection Institute. Chicago. \$395.

**7-8. Leadership & Quality Policing.** Presented by the International Association of Chiefs of Police. South Brunswick, N.J.

**11-12. Interview & Interrogation Methods.** Presented by Hutchinson Law Enforcement Training. Weymouth, Mass. \$220.

**11-12. Developing Interpersonal Skills.** Presented by the International Association of Chiefs of Police. Lindenhurst, Ill.

**11-12. Value-Centered Leadership: A Workshop on Ethics, Values & Integrity.** Presented by the International Association of Chiefs of Police. Hillsboro, Ore.

**11-12. Corporate Aircraft Security.** Pre-

sented by the Executive Protection Institute. Chicago. \$395.

**11-13. Stakeout & Surveillance.** Presented by the Public Safety Institute. Orlando, Fla. \$425.

**11-13. Surveillance & Undercover Officer Techniques.** Presented by the International Association of Chiefs of Police. Binghamton, N.Y.

**11-15. SWAT I: Basic Tactical Operations & High-Risk Warrant Service.** Presented by the International Association of Chiefs of Police. Framingham, Mass.

**11-15. Police Supervisor In-Service Training.** Presented by the Justice & Safety Institute, Penn State University. University Park, Pa.

**11-16. Victims of Severe Violence Meet the Offender.** Presented by the Center for Restorative Justice & Peacemaking, University of Minnesota. St. Paul, Minn. \$750.

**13-15. Crimes Against the Elderly.** Presented by the Public Safety Institute. Orlando, Fla. \$425.

**18-19. Building & Managing the School-Based Law Enforcement Program.** Presented by the Public Safety Institute. Orlando, Fla. \$295.

**18-19. Mentoring for the Retention of Public Safety Employees.** Presented by the International Association of Chiefs of Police. Schaumburg, Ill.

**18-19. Physical & Psychological Aspects of Police-Involved Shootings.** Presented by the International Association of Chiefs of Police. Maple Grove, Minn.

**18-19. Response to Chemical, Biological & Nuclear Terrorism.** Presented by the International Association of Chiefs of Police. Kansas City, Mo.

**18-20. New Chief's Development Seminar.** Presented by the International Association of Chiefs of Police. Sewell, N.J.

**18-22. Developing Law Enforcement Managers.** Presented by the Institute of Police Technology & Management. Pensacola, Fla. \$550.

**18-22. Homicide Investigation.** Presented by the Institute of Police Technology & Management. Jacksonville, Fla. \$550.

**18-22. Police Internal Affairs.** Presented by

the Institute of Police Technology & Management. Jacksonville, Fla. \$550.

**19-20. Effective Skills for Conflict Resolution.** Presented by Hutchinson Law Enforcement Training. Edison, N.J. \$220.

**20-22. Practical Applications of Crime Scene Search & Recovery.** Presented by the Public Safety Institute. Orlando, Fla. \$425.

**20-22. Managing Police Technology.** Presented by the International Association of Chiefs of Police. St. Louis.

**25-26. Property & Evidence Room Management.** Presented by the Public Safety Institute. Orlando, Fla. \$295.

**25-26. Police Grant Writing: Alternate Budget Sources.** Presented by the Public Safety Institute. Orlando, Fla. \$295.

**25-26. Advanced Grant Writing & Management.** Presented by the International Association of Chiefs of Police. Suffield, Conn.

**25-27. Crimes Against the Elderly.** Presented by the Public Safety Institute. Mt Pleasant, S.C. \$425.

**25-27. Administering & Managing Campus Law Enforcement & Security Agencies.** Presented by the International Association of Chiefs of Police. Davenport, Iowa.

**25-28. When Bookbags Become Holsters: Addressing Crime & Violence in America's Schools.** Presented by the Public Safety Institute. Orlando, Fla. \$550.

**25-28. Adult Sexual Assault Investigations.** Presented by the Public Safety Institute. Orlando, Fla. \$495.

**25-29. Less-Lethal Weapons Instructor Certification.** Presented by the International Association of Chiefs of Police. Hudson, N.H.

**27-29. Harnessing the Internet Pedophile.** Presented by the Public Safety Institute. Orlando, Fla. \$495.

## Going up?

If you want to inject some upward mobility into your law enforcement career, there's no better place to start than with the professional development opportunities you'll find in the Upcoming Events section of Low Enforcement News. Whether you want to broaden your knowledge base or deepen your specialized expertise, it's o con't-miss approach.

# Pulling in the reins on overzealous volunteers

A Pinellas Park, Fla., volunteer law enforcement initiative was cut to the bone by Police Chief Dorene Thomas this month after city officials complained that its members had gone overboard in giving out tickets.

Changes outlined in a March 15 memo by Thomas included the elimination of the group's ticket-writing duties, the reduction of its numbers from 41 members to 20 through attrition, and the use of only two cars instead of four.

Members of the Volunteers in Policing program will also no longer wear a uniform with a police patch and a utility belt resembling a gun belt. They will wear golf or polo shirts, the chief said. Instead of vehicles marked "Police Volunteers," they will be labeled just "Volunteers" and have no amber lights on top. Volunteers will help conduct speed surveys on busy streets, work at events such as Country in the Park, and pick up lost or found property.

The modifications will put the program back on the proper footing, said Thomas. "The volunteers were designed to assist in a positive way," she

said. "They've done a super job.... They've made a positive impact in the communities.... People like seeing them, like talking to them."

But they apparently do not like being ticketed by them. Mayor Bill Mischler criticized the program for expanding beyond its original intent, while one volunteer, Cliff Smith, accused the mayor of fixing a ticket Smith had issued to an illegally parked work van. The van driver's father called Mischler, who called a police sergeant. The ticket was rescinded. Thomas cleared the mayor of wrongdoing, saying the sergeant had acted on his own.

While praising the program, Mischler said some of its members had become "overzealous." Said City Councilman Rick Butler: "I'm not going to second-guess what she [Thomas] wants to do. I ain't going to get involved in day-to-day operations."

Butler was supportive of the changes, however, telling The St. Petersburg Times that they would resolve many of the issues surrounding the volunteer program.

# Fed anti-drug grants for public housing facing the ax

Continued from Page 1

Program, sales and property taxes may have to be raised, Keith told The News-Sentinel. "Selfishly, I don't want the money to go away," he said.

In Waterbury, Conn., where funding under the program has shrunk over the years from \$250,000 to \$154,000 last year, it still pays for four of the six members of the Waterbury Housing Authority's police unit.

Authorities have been able to push whatever drug dealing there is indoors, said Bruno Licaria, the authority's executive director. "It used to be like a lemonade stand," he told LEN. "Tenants would be harassed, intimidated, brutalized. Now we have our own patrols in the projects, and in addition, we have the Waterbury Police Department patrolling."

But municipal law enforcement cannot provide the coverage that the housing authority's own unit does, said Licaria. Like a small-town force, officers know the residents and know who lives in the projects, he said. Losing the

squad would cut back the visibility of police there.

"If you're driving down the highway, you know there are highway patrol, but you're going to go beyond the speed limit if you drive that way," said Licaria. "If you see a cruiser patrolling with head lamps on, you tend to slow down."

The loss of nearly half a million dollars in HUD grants will adversely affect the city of Bridgeport, Conn., as well, but will not affect public-housing tenants, said Joe Gresko, a spokesman for the city's police department. Within the agency, he told LEN, there is a separate public-housing unit. Whether that program is slashed, the department's commitment to patrolling and maintaining the safety of residents remains firm.

"It'll hurt, and the city is going through a challenging budget for itself this year as well," he told LEN. "We'll have to make some adjustments where we can in coverage and the like. It'll hurt the city, but not the residents who depend on the safety we provide."

# For further information:

Addresses & phone/fax numbers for organizations listed in calendar of events.

Alpha Group Center for Crime & Intelligence Analysis Training, P O Box 8, Montclair, CA 91763 (909) 989-4366. Fax: (909) 476-8171. E-mail: crimecrush@aol.com. Web: <www.alphagroupcenter.com>.

Center for Restorative Justice & Peacemaking, University of Minnesota School of Social Work, 105 Peters Hall, 1404 Gortner Ave., St. Paul, MN 55108-6160. (612) 624-4923. Fax: (612) 625-8224. E-mail: rjp@che.umn.edu. Web: <http://ssw.che.umn.edu/rjp>.

Delinquency Control Institute, P.O. Box 77902, Los Angeles CA 90099-3334 (213) 743-2497. Fax: (213) 743-2313. E-mail: jar@usc.edu. Web: <www.usc.edu/dept/spdd/dci>.

Executive Protection Institute, Highlander Lodge, P.O. Box 802, Berryville, VA 22611 (540) 554-2540. Web: <www.personalprotection.com>.

Hutchinson Law Enforcement Training, L.L.C., P.O. Box 822, Granby, CT 06035. (800) 627-5480. Fax: (860) 653-0788. E-mail: dhutch4848@aol.com. Web:

<www.patriotweb.com/hlet>

Institute Of Police Technology & Management, University of North Florida, 12000 Alumni Dr., Jacksonville, FL 32224-2678. (904) 620-1PTM. Fax: (904) 620-2453. Web: <www.unf.edu/iptm>.

International Association of Chiefs of Police, 1-800-THE-IACP Fax: (703) 836-4543.

Justice & Safety Institute, Penn State University 1-800-PSU-TODAY. Web: <www.outreach.psu.edu/JusticeSafety>.

National Criminal Justice Training Council, P.O. Box 1003, Twin Lakes, WI 53181-1003. (262) 279-5735. Fax: (262) 279-5758. E-mail: NCJTC@aol.com. Web: <www.lawenforcementexpert.com>.

New England Institute of Law Enforcement Management, P.O. Box 57350, Wellesley, MA 02457. (781) 239-7033. Fax: (781) 237-4724. Web: <www.neilem.com>.

Public Safety Institute, University of North Florida, P.O. Box 3071, Orlando, FL 32802-3071. (407) 623-1057. Fax: (407) 623-1059. E-mail: iptmorlando@earthlink.net. Web: <www.unf.edu/iptm>.



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# London, England

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## Loopholes = bullet holes

Investigators armed  
with fake IDs have  
little trouble dodging  
Brady Act background  
checks in 5 states.

**Page 1.**



## You've got hate mail!

DC police officials  
find nearly 1 million  
vulgar & racist  
e-mails logged on  
patrol car  
computers. **Page 7.**



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### What They Are Saying:

**"All we can do is put them out when they set themselves on fire."**

— A Royal Canadian Mounted Police officer, commenting on the stressful task of dealing with  
a new substance-abuse practice by native children in a remote section  
of northeastern Canada — gasoline-sniffing. (Story, Page 6.)